



LIBRARY OF CONGRESS

This document is scheduled to be published in the Federal Register on 11/08/2012 and available online at <http://federalregister.gov/a/2012-27231>, and on FDsys.gov

Copyright Office

37 CFR Part 202

[Docket No. RM 2012-11]

Registration of Claims to Copyright: Group Registration of Serial Issues Filed Electronically

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim regulations.

SUMMARY: The Copyright Office is adopting interim regulations that allow groups of related serial issues to be filed through the Office's electronic registration system. This interim rule will also allow applicants for groups of related serials, in certain circumstances, to mail physical deposit copies of the serial issues upon submitting an electronic application and payment, when electronic deposit copies do not exist. Regardless of the registration option chosen, applicants must still send two complimentary subscription copies of the serial promptly to the Library of Congress as a condition of eligibility unless directed otherwise by the Office. While filing electronically is not mandatory, the Copyright Office strongly urges applicants to use the electronic filing option since it is more efficient for both the user and the agency.

EFFECTIVE DATE: [Insert Date of Publication in the **FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: Robert Kasunic, Deputy General Counsel, or Kent Dunlap, Assistant General Counsel, Telephone: (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION:

Background

When Congress enacted its major revision to the copyright law in 1976, the Register of Copyrights was granted discretion to provide for a single registration for a group of related works. 17 U.S.C. 408(c)(1). In 1991, final regulations became effective permitting group registration of certain serial publications. 55 FR 50556 (December 7, 1990). Under these regulations, issues of serials published at intervals of a week or longer within a three-month period during the same calendar year can be grouped and registered on a single application and for a single fee. The group registration privilege is contingent upon the prompt submission of two complimentary subscription copies of each issue to the Library of Congress. Additionally, several other conditions apply, e.g., the registered serials must be collective works by the same author and claimant and must be works made for hire. *See* 37 CFR §202.3(b)(6). The option for group registration of related serials does not allow the applicant to claim contributions of component works that were not made for hire.

Since the middle of 2007, the Copyright Office has offered and encouraged the option of submitting applications for copyright registration online. *See* Online Registration of Claims to Copyright, 72 FR 36883 (July 6, 2007). When this electronic system was implemented, it was limited to basic registrations, i.e., claims in single works, while the capacity to process online group registration options was being developed. Applicants for group registration were required to use the existing paper forms.

On September 29, 2009, the Copyright Office initiated a limited pilot project to allow groups of related serials to be filed electronically. This pilot project involved modifying the information provided on the basic electronic application to obtain information about the group of

related serials. Revisions to the electronic registration system will upgrade the capacity of the system to provide a new group serial option for general use by eligible applicants.

Interim Regulation

The interim regulation creates minor changes in sections 202.3, relating to registration of copyright, and 202.20, relating to copyright deposit, in order to create an option of filing electronically to register groups of related serial issues. All conditions for applying for group registration of serial issues using a Form SE/Group will also apply to electronic registration. Therefore, in order to be eligible to apply for electronic registration of a group of serial issues, automatic regular submission of two complimentary subscription copies of each issue for the Library of Congress must be provided, just as is the case for using paper form SE/Group, unless directed otherwise by the Copyright Office. Moreover, group serial claims remain limited to claims in collective works by the same author and claimant and must be works made for hire.

In the pilot phase, all of the volunteers filing electronically for registration of groups of serial issues were required to upload a digital file of a complete copy of each issue. Because some publishers did not have electronic versions of the serial issues and found it difficult to create such deposit copies, these interim rules will allow the applicant to provide either a hard copy deposit, or a digital file format complying with §202.20(b)(2)(iii) of the regulations. In order to enhance efficiency and expedite the handling of claims, the Office encourages electronic registration generally, and also encourages electronic deposit of groups of serials when applying electronically, where possible. In either case, two complimentary subscription copies of the serial must be sent to the Library of Congress as a condition of eligibility, unless directed otherwise by Copyright Office.

Adoption of Interim Regulations

Section 553(b)(3)(A) of the Administrative Procedure Act states that general notice of proposed rulemaking is not required for rules of agency organization, procedure, or practice. Since the Office finds that the following interim regulations are rules of agency organization, procedure, or practice, no notice of proposed rulemaking is required. Additionally, the interim regulations relieve applicants from procedural restrictions by permitting online registration in situations where, previously, applications were required to be filed on paper. Pursuant to section 553(d) of the Administrative Procedure Act, these regulations may be effective immediately. Moreover, the Register finds that because these regulations provide additional options to applicants for group registration of serial issues, good cause exists for making these interim rules effective immediately and without notice and comment.

List of Subject in 37 CFR Part 202

Copyright, Registration

Interim Regulation

In consideration of the foregoing, the Copyright Office amends part 202 to Title 37 of the Code of Federal Regulations to read as follows:

Part 202 - PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408, 702.

- 2 Section 202.3 is amended by revising paragraph (b)(6)(v) to read as follows:

§ 202.3 Registration of copyright.

* * * * *

(b)* * *

(6) * * *

(v) To apply for registration of a group of serial issues under 408(c)(1) of title 17 and this section, an applicant may file electronically, or submit a completed Form SE/Group.

(A) For applicants filing electronically:

(1) Furnish the requested information for group of serial issues.

(2) Submit the appropriate filing fee, as required in §201.3(c) of this chapter, for each issue covered by the group registration.

(3) Submit either a digital format which complies with §202.20(b)(2)(iii) or a deposit consisting of one complete copy of the best edition of each issue included in the group registration.

(B) For applicants filing a completed Form SE/Group, the following must be sent together in the same package:

(1) A completed Form SE/Group, providing the requested information.

(2) The appropriate filing fee, as required in §201.3(c) of this chapter, for each issue covered by the group registration.

(3) A deposit consisting of one complete copy of the best edition of each issue included in the group registration.

* * * * *

3. Section 202.20 is amended by revising paragraph (c)(2)(xvii) to read as follows:

§ 202.20 Deposit of copies and phonorecords for copyright registration.

* * * * *

(c)* * *

(2) * * *

(xvii) *Group registration of serials.* For group registration of related serials, as specified in §202.3(b)(6), for applicants filing electronically, the deposit must consist of one complete copy of the best edition of each issue included in the group registration, or a digital format of a complete copy which complies with §202.20(b)(2)(iii). For applicants filing a completed Form SE/Group, the deposit must consist of one complete copy of the best edition of each issue included in the group registration. In addition, for all filings for group registration of serial issues, two complimentary subscriptions to any serial for which group registration is sought must be entered and maintained in the name of the Library of Congress, and the copies must be submitted regularly and promptly after publication.

* * * * *

Dated: September 27, 2012

Maria A. Pallante,
Register of Copyrights.

Approved by

James H. Billington,
The Librarian of Congress.

[BILLING CODE 1410-30 P]

[FR Doc. 2012-27231 Filed 11/07/2012 at 8:45 am; Publication Date: 11/08/2012]